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BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )

Amendment of Section 73.202(b) )  
Table of Allotments )  
FM Broadcast Stations )

Hazlehurst, Utica and )  
Vicksburg, Mississippi )

MM Docket No. 93-158  
RM-8239

Flora and Kings, Mississippi )  
and Newellton, Louisiana )

MM Docket No. 91-131  
RM-7702, RM-7840, RM-7841

To: Chief, Mass Media Bureau

Petition for Extraordinary Relief

1. On June 16, 1993, the Commission released a Notice of Proposed Rule Making ("NPRM")<sup>1</sup> proposing, inter alia, to substitute Channel 265C3 for Channel 225A at Utica, Mississippi, and modify the authorization of Station WJXN(FM), Utica, to specify operation on the new channel. This NPRM was issued in response to a Petition for Rulemaking filed on December 14, 1992 by St. Pe' Broadcasting ("St. Pe'"), licensee of Station WJXN(FM).

2. Crossroads Communications, Inc. ("Crossroads"), permittee of Station WXFJ(FM), Flora, Mississippi, by its attorney and pursuant to Rule 1.3, hereby requests that the Commission either:

- (b) reconsider its issuance of the NPRM in MM Docket No. 93-158 and terminate that proceeding and treat St. Pe's current allocation proposal as a modification of its pending Petition in MM Docket No. 91-131.

In support of these alternative requests, the following is respectfully shown.

**I. Interest of Crossroads**

3. Crossroads was initially authorized to operate Station WXFJ(FM) as a Class A facility on Channel 248. Crossroads subsequently requested that Channel 247C3 be substituted for Channel 248A at Flora and that its authorization be modified to specify operation on that allocation.<sup>2/</sup>

4. St. Pe' also submitted a counter-proposal in MM Docket No. 91-131 in which it requested that the Commission:

- (i) substitute Channel 265C3 for Channel 225A at Utica and authorize Station WJXN(FM) to operate on the up-graded channel;
- (ii) down-grade Station WMDC-FM, Hazlehurst, Mississippi, (as also proposed in MM Docket No. 93-158); and
- (iii) substitute Channel 246A for Channel 266A at Vicksburg, Mississippi.

5. The substitution of Channel 246A for Channel 266A at Vicksburg would have precluded the upgrade requested by

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<sup>2/</sup> See Crossroads' June 28, 1991 counter-proposal in MM Docket No. 91-131.

Crossroads. St. Pe's present proposal to substitute Channel 267A for Channel 266A at Vicksburg does not conflict with Crossroad's proposal.

6. In a Report and Order released on August 25, 1992, the Commission approved the upgrade requested by Crossroads in MM Docket No. 91-131 and rejected St. Pe's counter-proposal. On September 27, 1993, St. Pe' filed a Petition for Reconsideration and Stay of the Report and Order. That Petition is still pending.

7. Crossroads' is still unable to proceed with construction of its authorized facility since the Commission will not accept an application from Crossroads to up-grade Station WXFJ(FM) until MM Docket No. 91-131 is finally concluded. By issuing the NPRM in MM Docket No. 93-158 before it concluded MM Docket No. 91-131, the Commission has left Crossroads in a state of limbo while St. Pe' pursues two **inconsistent** proposals to up-grade the FM allocation of Station WJXN(FM).

8. The present situation is anomalous in the extreme. Crossroads submits that the Commission should now take one of the following actions:

- (a) Immediately deny St. Pe's pending Petition for Reconsideration in MM Docket No. 91-131, for either: (i) the reasons noted in Crossroads' December 2, 1992 Opposition to that Petition; or (ii) on the grounds that St. Pe' has, in effect, abandoned its Petition by filing its current inconsistent allocation proposal.
- (b) Treat St. Pe's present proposal as a modification of its pending Petition for Reconsideration in Docket No. 91-131 rather than as a new rulemaking proposal.

Either approach would expedite the introduction of new broadcast service to Flora.

**II. Option No. 1: Immediate Denial of St. Pe's Pending Petition for Reconsideration**

9. The plain fact is that St. Pe's current allocation proposal is inconsistent with its previous proposal in MM Docket No. 91-131 in that it has proposed to substitute two different channels in Vicksburg. Just as the Commission prohibits broadcast applicants from simultaneously prosecuting inconsistent applications (Rule 73.3518), it should prohibit St. Pe' from simultaneously prosecuting inconsistent FM allocation proposals. Thus, it should treat St. Pe's filing of its current proposal as an abandonment of its proposal in MM Docket No. 91-131 and forthwith deny St. Pe's pending Petition.

10. Immediate action on St. Pe's pending Petition for Reconsideration is especially warranted in view of the long time it has already been pending. Moreover, denial of the Petition is the proper action: important public interest considerations fully justified the Commission's original grant of Crossroads' proposal and denial of St. Pe's proposal.

**III. Option No. 2: Consider St. Pe's Present Proposal as a Modification of its Petition for Reconsideration in Docket No. 91-131**

11. There is at least one additional approach which would also expedite the commencement of new broadcast service by Crossroads: the Commission could consider St. Pe's current proposal as a modification of its Petition for Reconsideration in

MM Docket No. 91-131. This approach would expedite not only the construction of Crossroads' new station but also the up-grade of St. Pe's station.

13. Significantly, the proposals for both Crossroads' and St.

as to resolve the original conflict. There is ample precedent for the Commission accepting such proposals long after the expiration of the period for filing comments and reply comments. As the Commission has repeatedly recognized, this approach serves the public interest by permitting the maximum expansion of broadcast service.

14. In Crossroads' view, St. Pe' should have filed its current proposal as a supplement to its pending Petition for Reconsideration in MM Docket No. 91-131. For whatever reason, it chose not to do so. However, the Commission is not bound by St. Pe's procedural choice. Section 4(i) of the Communications Act of 1934, as amended, and Commission Rule 1.3, authorize the Commission, for good cause and either upon its motion or upon a request such as this, to take whatever actions may be necessary to the proper discharge of the Commission's responsibilities. Clearly, the Commission has authority to withdraw its NPRM in MM Docket No. 93-158 and consider St. Pe's counter-proposal in MM Docket No. 91-131. The public interest requires that it do so.

#### IV. Conclusion

Crossroads urges that the Commission take either of the two courses of action described above so as to permit Crossroads to

move ahead with its now long-authorized construction of Station  
WXFJ(FM) on Channel 247C3 at Flora.

Respectfully submitted,

CROSSROADS COMMUNICATIONS, INC.

By

  
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Its Attorney

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**CERTIFICATE OF SERVICE**

I, Georgia L. Duckworth, hereby certify that a copy of the foregoing "Petition for Extraordinary Relief" was forwarded via first class U.S. mail, postage prepaid, this 23rd day of July, 1993, to each of the following:

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Georgia L.. Duckworth